IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

I.T.A. No. 344 of 2007

DATE OF DECISION: 11.10.2007

M/s F.M.W. Exports

…Appellant

Versus

C.I.T., Ludhiana

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. Rajiv Sharma, Advocate, for
Mr. S.K. Mukhi, Advocate,
for the appellant-assessee.

M.M. KUMAR, J.

This is assessee's appeal under Section 260A of the Income-tax Act, 1961 (for brevity, 'the Act'), against order dated 17.5.2007, passed by the Income Tax Appellate Tribunal, Chandigarh Branch 'A', Chandigarh (for brevity, 'the Tribunal), in I.T.A. No. 815/Chandi/2006, in respect of assessment year 2001-02. It is claimed that the following substantial questions of law would arise for determination of this Court:-

I. Whether, on the facts and circumstances of the case, the ITAT was justified in law to hold that appellant was not entitled to the deduction u/s 80-IB in respect of profits and gains arising on account of duty drawback and DFRC Premium

which is intrinsically related/connected to the business profits of the industrial undertaking?

II. Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was justified in denying the claims of the appellant u/s 80IB of the Income Tax Act, 1961 by blindly relying upon the judgment of this Court in the case of Liberty India and other judgments which are distinguishable on facts itself?

III. Whether, on the facts and circumstances of the case, the findings of ITAT are perverse and against the evidences on record, thus, unsustainable in law?

IV. Whether the ITAT has misdirected itself in being influenced by irrelevant factors and applying erroneous criteria while deciding the issue of eligibility for claiming deduction under Section 80IB of the Income-tax Act, 1961?

After hearing learned counsel for the assessee-appellant and perusing the record, we are of the considered view that no question of law, much less a substantive question of law warranting admission of the appeal would arise, inasmuch as, the matter is no longer *res integra*. We have already rejected appeals bearing I.T.A. Nos. 278 and 279 of 2007 in the case of M/s Arisudana Spinning Mills Ltd. v. CIT, decided on 31.7.2007, wherein similar questions of law were raised. The Tribunal has rightly allowed the appeal filed by the revenue by following the law laid down by Hon'ble the Supreme Court in the case of **CIT v. Sterling Foods, (1999) 237 ITR 579**,

which is fully applicable to the instant appeal. Therefore, we do not find any ground to interfere with the view taken by the Tribunal.

In view of the above, this appeal is wholly without merit. Dismissed.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

October 11, 2007
Pkapoor